

AMENDED IN SENATE APRIL 11, 2005

**SENATE BILL**

**No. 874**

**Introduced by Senator Romero**

February 22, 2005

---

~~An act to amend Section 230 of the Labor Code, relating to workplace protections. An act to add Section 10295.7 to the Public Contract Code, relating to contracts.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 874, as amended, Romero. ~~Workplace protections—Public contracts.~~

*Existing law authorizes the Department of General Services to contract with suppliers to acquire goods and services for state agencies.*

*This bill would prohibit a state agency from entering into a contract for the acquisition of goods or services with a contractor, as defined, who does not have and adhere to a written policy providing his or her employees with not less than 10 days of regular pay for actual jury service.*

~~Existing law prohibits an employer from taking adverse employment action against an employee who takes time off from work to attend to specified issues, including to serve on a jury, as long as the employee complies with certain conditions.~~

~~This bill would make a technical, nonsubstantive change to that law.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 10295.7 is added to the Public Contract
- 2     Code, to read:

1 10295.7. (a) Notwithstanding any other provision of law, no  
2 state agency may enter into any contract for the acquisition of  
3 goods or services with a contractor who does not have and  
4 adhere to a written policy providing the contractor's employees  
5 with not less than 10 days of regular pay for actual jury service.

6 (b) For purposes of this section, "contractor" means an  
7 individual or business employing more than 10 employees.

8 ~~SECTION 1. Section 230 of the Labor Code is amended to~~  
9 ~~read:~~

10 ~~230. (a) An employer may not discharge or in any manner~~  
11 ~~discriminate against an employee for taking time off to serve as~~  
12 ~~required by law on an inquest jury or on a trial jury, if the~~  
13 ~~employee, prior to taking the time off, gives reasonable notice to~~  
14 ~~the employer that he or she is required to serve.~~

15 ~~(b) An employer may not discharge or in any manner~~  
16 ~~discriminate or retaliate against an employee, including, but not~~  
17 ~~limited to, an employee who is a victim of a crime, for taking~~  
18 ~~time off to appear in court to comply with a subpoena or other~~  
19 ~~court order as a witness in any judicial proceeding.~~

20 ~~(c) An employer may not discharge or in any manner~~  
21 ~~discriminate or retaliate against an employee who is a victim of~~  
22 ~~domestic violence or a victim of sexual assault for taking time off~~  
23 ~~from work to obtain or attempt to obtain any relief, including, but~~  
24 ~~not limited to, a temporary restraining order, restraining order, or~~  
25 ~~other injunctive relief, to help ensure the health, safety, or~~  
26 ~~welfare of the victim or his or her child.~~

27 ~~(d) (1) As a condition of taking time off for a purpose set~~  
28 ~~forth in subdivision (c), the employee shall give the employer~~  
29 ~~reasonable advance notice of the employee's intention to take~~  
30 ~~time off, unless the advance notice is not feasible.~~

31 ~~(2) When an unscheduled absence occurs, the employer shall~~  
32 ~~not take any action against the employee if the employee, within~~  
33 ~~a reasonable time after the absence, provides a certification to the~~  
34 ~~employer. Certification shall be sufficient in the form of any of~~  
35 ~~the following:~~

36 ~~(A) A police report indicating that the employee was a victim~~  
37 ~~of domestic violence or sexual assault.~~

38 ~~(B) A court order protecting or separating the employee from~~  
39 ~~the perpetrator of an act of domestic violence or sexual assault,~~

1 or other evidence from the court or prosecuting attorney that the  
2 employee has appeared in court.

3 ~~(C) Documentation from a medical professional, domestic~~  
4 ~~violence advocate or advocate for victims of sexual assault,~~  
5 ~~health care provider, or counselor that the employee was~~  
6 ~~undergoing treatment for physical or mental injuries or abuse~~  
7 ~~resulting in victimization from an act of domestic violence or~~  
8 ~~sexual assault.~~

9 ~~(3) To the extent allowed by law, the employer shall maintain~~  
10 ~~the confidentiality of any employee requesting leave under~~  
11 ~~subdivision (c).~~

12 ~~(e) Any employee who is discharged, threatened with~~  
13 ~~discharge, demoted, suspended, or in any other manner~~  
14 ~~discriminated or retaliated against in the terms and conditions of~~  
15 ~~employment by his or her employer because the employee has~~  
16 ~~taken time off for a purpose set forth in subdivision (a), (b), or (c)~~  
17 ~~shall be entitled to reinstatement and reimbursement for lost~~  
18 ~~wages and work benefits caused by the acts of the employer. Any~~  
19 ~~employer who willfully refuses to rehire, promote, or otherwise~~  
20 ~~restore an employee or former employee who has been~~  
21 ~~determined to be eligible for rehiring or promotion by a~~  
22 ~~grievance procedure or hearing authorized by law is guilty of a~~  
23 ~~misdemeanor.~~

24 ~~(f) (1) Any employee who is discharged, threatened with~~  
25 ~~discharge, demoted, suspended, or in any other manner~~  
26 ~~discriminated or retaliated against in the terms and conditions of~~  
27 ~~employment by his or her employer because the employee has~~  
28 ~~exercised his or her rights as set forth in subdivision (a), (b), or~~  
29 ~~(c) may file a complaint with the Division of Labor Standards~~  
30 ~~Enforcement of the Department of Industrial Relations pursuant~~  
31 ~~to Section 98.7.~~

32 ~~(2) Notwithstanding any time limitation in Section 98.7, an~~  
33 ~~employee filing a complaint with the division based upon a~~  
34 ~~violation of subdivision (c) shall have one year from the date of~~  
35 ~~occurrence of the violation to file his or her complaint.~~

36 ~~(g) An employee may use vacation, personal leave, or~~  
37 ~~compensatory time off that is otherwise available to the~~  
38 ~~employee under the applicable terms of employment, unless~~  
39 ~~otherwise provided by a collective bargaining agreement, for~~  
40 ~~time taken off for a purpose specified in subdivision (a), (b), or~~

1 ~~(c). The entitlement of any employee under this section shall not~~  
2 ~~be diminished by any collective bargaining agreement term or~~  
3 ~~condition.~~  
4 ~~(h) For purposes of this section:~~  
5 ~~(1) “Domestic violence” means any of the types of abuse set~~  
6 ~~forth in Section 6211 of the Family Code, as amended.~~  
7 ~~(2) “Sexual assault” means any of the crimes set forth in~~  
8 ~~Section 261, 261.5, 262, 265, 266, 266a, 266b, 266c, 266g, 266j,~~  
9 ~~267, 269, 273.4, 285, 286, 288, 288a, 288.5, 289, or 311.4 of the~~  
10 ~~Penal Code, as amended.~~